

STATE OF NEW YORK

4356

2017-2018 Regular Sessions

IN SENATE

February 10, 2017

Introduced by Sen. TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to creating the alternative fuel incentive fund; to amend the tax law, in relation to creating the alternative fuels credit; to amend the public authorities law, in relation to alternative fuel grants; and making an appropriation therefor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The state finance law is amended by adding a new section
2 99-aa to read as follows:

3 § 99-aa. Alternative fuel incentive fund. 1. There is hereby estab-
4 lished in the joint custody of the state comptroller and the commission-
5 er of taxation and finance a special revenue fund to be known as the
6 "alternative fuel incentive fund".

7 2. The fund shall consist of the amount of revenues from sales taxes
8 imposed on the receipts of the price of motor and diesel fuel more than
9 one dollar or equal to or less than two dollars.

10 3. Monies of the fund, when allocated, shall be disbursed for the
11 following purposes:

12 (a) credits against personal income tax and corporate franchise tax
13 for the installation or conversion of fueling stations for alternative
14 fuels;

15 (b) grants for research and development in regards to fuel diversifi-
16 cation and energy efficiency in the transportation sector;

17 (c) installation of alternative fueling stations at each of the twen-
18 ty-seven travel plazas on the New York state thruway;

19 (d) grants for a cellulosic ethanol refinery; and

20 (e) administrative costs borne by the department of taxation and
21 finance and the New York state energy research and development authori-
22 ty.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD06419-01-7

1 § 2. Section 1148 of the tax law, as amended by section 57 of part HH
2 of chapter 57 of the laws of 2013, is amended to read as follows:

3 § 1148. Deposit and disposition of revenue. All taxes, interest and
4 penalties collected or received by the commissioner under this article
5 shall be deposited and disposed of pursuant to the provisions of section
6 one hundred seventy-one-a of this chapter; provided however, the comp-
7 troller shall on or before the twelfth day of each month, pay all such
8 taxes, interest and penalties collected under this article and remaining
9 to the comptroller's credit in such banks, banking houses or trust
10 companies at the close of business on the last day of the preceding
11 month, into the general fund of the state treasury, except as otherwise
12 provided in sections ninety-two-d, ninety-two-h, [~~and~~] ninety-two-r and
13 ninety-nine-aa of the state finance law and sections eleven hundred two,
14 eleven hundred four and eleven hundred nine of this article.

15 § 3. Section 606 of the tax law is amended by adding two new
16 subsections (p-1) and (ccc) to read as follows:

17 (p-1) Alternative fuels credit. (1) General. A taxpayer shall be
18 allowed a credit, to be computed as hereinafter provided, against the
19 tax imposed by this article for fuel flexible vehicles and qualified
20 hybrid vehicles placed in service during the taxable year. Provided,
21 however, that the credit provided for by this subsection with respect to
22 fuel flexible vehicles shall not be allowed to a gas corporation or
23 electric corporation as defined in subdivisions eleven and thirteen of
24 section two of the public service law, or a gas and electric corporation
25 as described in section sixty-four of the public service law, where such
26 corporation is subject to the supervision of the department of public
27 service.

28 (2) Fuel flexible and hybrid vehicles. The credit under this
29 subsection for fuel flexible and qualified hybrid vehicles shall equal
30 five hundred dollars per vehicle registered in this state.

31 (3) Definitions. (A) The term "fuel flexible vehicle" means a vehicle
32 which is equipped to use alternative fuel as defined in subdivision
33 fourteen of section three hundred fifty-one of the public authorities
34 law.

35 (B) The term "qualified hybrid vehicle" means a motor vehicle, as
36 defined in section one hundred twenty-five of the vehicle and traffic
37 law, other than an electric vehicle, that:

38 (i) draws propulsion energy from both
39 (a) an internal combustion engine (or heat engine that uses combusti-
40 ble fuel); and

41 (b) an energy storage device; and
42 (ii) employs a regenerative vehicle braking system that recovers waste
43 energy to charge such energy storage device.

44 (4) Carryovers. If the amount of credit allowable under this
45 subsection shall exceed the taxpayer's tax of such year, the excess, may
46 be carried over to the following year or years and may be deducted from
47 the taxpayer's tax for such year or years.

48 (5) Credit recapture. (A) Vehicles. If, within three full years from
49 the date a qualified hybrid vehicle is placed in service such vehicles
50 cease to be qualified, a recapture amount must be added back in the tax
51 year in which such cessation occurs.

52 (B) Cessation of qualification. (i) A qualified hybrid ceases to be
53 qualified if

54 (a) it is modified by the taxpayer so that it no longer meets the
55 requirements of a qualified hybrid vehicle.

1 (b) the taxpayer receiving the credit under this subsection sells or
 2 disposes of the vehicle and knows or has reason to know that the vehicle
 3 will be so modified.

4 (ii) Recapture amount. The recapture amount is equal to the credit
 5 allowable under this subsection.

6 (6) Termination. This subsection shall not apply to property placed in
 7 service in taxable years beginning after December thirty-first, two
 8 thousand eighteen.

9 (ccc) Alternative fuel credit for installation or conversion of fuel-
 10 ing stations. (1) Allowance of credit. A taxpayer shall be allowed a
 11 credit, to be computed hereinafter provided, against the tax imposed by
 12 this article for the cost of installation construction, reconstruction
 13 or acquisition of an alternative fuel refueling facility that is direct-
 14 ly attributable to the storage, compression, charging or dispensing of
 15 alternative fuels to motor vehicles. The income tax credit would be
 16 thirty percent of the costs associated with such expenses.

17 (2) Application of credit. If the amount of the credit allowable under
 18 this subsection for any taxable year exceeds the taxpayer's tax for such
 19 year, fifty percent of the excess shall be treated as an overpayment of
 20 tax to be credited or refunded as provided in section six hundred eight-
 21 y-six of this article, provided, however, that no interest shall be paid
 22 thereon. The balance of such credit not credited or refunded in such
 23 taxable year may be carried over to the immediately succeeding taxable
 24 year and may be deducted from the taxpayer's tax for such year. The
 25 excess, if any, of the amount of the credit over the tax for such
 26 succeeding year shall be treated as an overpayment of tax to be credited
 27 or refunded as provided in section six hundred eighty-six of this arti-
 28 cle, provided, however, that no interest shall be paid thereon.

29 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 30 of the tax law is amended by adding two new clauses (xliii) and (xliv)
 31 to read as follows:

32 <u>(xliii) Alternative fuels</u>	<u>Amount of credit</u>
33 <u>credit under subsection</u>	<u>under subdivision</u>
34 <u>(p-1)</u>	<u>fifty-two of</u>
35	<u>section two hundred ten-B</u>

36 <u>(xliv) Alternative fuel credit</u>	<u>Amount of credit</u>
37 <u>for installation or</u>	<u>under subdivision</u>
38 <u>conservation of fueling</u>	<u>fifty-three of section</u>
39 <u>stations under subsection</u>	<u>two hundred ten-B</u>
40 <u>(ccc)</u>	

41 § 5. Section 210-B of the tax law is amended by adding two new subdivi-
 42 sions 52 and 53 to read as follows:

43 52. Alternative fuels credit. (a) General. A taxpayer shall be allowed
 44 a credit, to be computed as hereinafter provided, against the tax
 45 imposed by this article, for fuel flexible vehicles and qualified
 46 hybrids. Provided, however, that the credit provided for by this
 47 subsection with respect to fuel flexible vehicles shall not be allowed
 48 to a gas corporation or electric corporation as defined in subdivisions
 49 eleven and thirteen of section two of the public service law, or a gas
 50 and electric corporation as described in section sixty-four of the
 51 public service law, where such corporation is subject to the supervision
 52 of the department of public service.

53 (b) Fuel flexible vehicles and qualified hybrid vehicles. The credit
 54 under this subdivision for fuel flexible vehicles and qualified hybrid

1 vehicles shall equal five hundred dollars per vehicle registered in this
2 state.

3 (c) Definitions. (i) The term "fuel flexible vehicle" means a vehicle,
4 which is equipped to use alternative fuel as defined in subdivision
5 fourteen of section three hundred fifty-one of the public authorities
6 law.

7 (ii) The term "qualified hybrid vehicle" shall have the same meaning
8 as provided for under subparagraph (B) of paragraph three of subsection
9 (p-1) of section six hundred six of this chapter.

10 (d) Carryovers. In no event shall the credit under this subdivision be
11 allowed in an amount which will reduce the tax payable to less than the
12 higher of the amounts prescribed in paragraph (d) of subdivision one of
13 section two hundred ten of this article. Provided, however, that if the
14 amount of credit allowable under this subdivision for any taxable year
15 reduces the tax to such amount, any amount of credit not deductible in
16 such taxable year may be carried over to the following year or years and
17 may be deducted from the taxpayer's tax for such year or years.

18 (e) Credit recapture. (i) If, within three full years from the date a
19 qualified hybrid vehicle is placed in service ceases to be qualified, a
20 recapture amount must be added back in the tax year in which such cessa-
21 tion occurs.

22 (ii) A qualified hybrid vehicle ceases to be qualified if:

23 (A) it is modified by the taxpayer so that it no longer meets the
24 requirements of a qualified hybrid vehicle as defined in subparagraph
25 (B) of paragraph three of subsection (p-1) of section six hundred six of
26 this chapter; or

27 (B) the taxpayer receiving the credit under this subsection sells or
28 disposes of the vehicle and knows or has reason to know that the vehicle
29 will be so modified.

30 (iii) Recapture amount. The recapture amount is equal to the credit
31 allowable under this subdivision multiplied by a fraction, the numerator
32 of which is the total recovery period for the property minus the number
33 of recovery years prior to, but not including, the recapture year, and
34 the denominator of which is the total recovery period.

35 (f) Termination. This subdivision shall not apply to property placed
36 in service in taxable years beginning after December thirty-first, two
37 thousand eighteen.

38 53. Alternative fuel credit for installation or conversion of fueling
39 stations. (a) Allowance of credit. A taxpayer shall be allowed a credit,
40 to be computed as hereinafter provided, against the tax imposed by this
41 article for the cost of installation construction, reconstruction or
42 acquisition of an alternative fuel refueling facility that is directly
43 attributable to the storage, compression, charging or dispensing of
44 alternative fuels to motor vehicles. The income tax credit shall be
45 thirty percent of the costs associated with such expenses.

46 (b) Application of credit. The credit allowed under this subdivision
47 for any taxable year shall not reduce the tax due for such year to less
48 than the amount described in paragraph (d) of subdivision one of section
49 two hundred ten of this article. If the amount of the credit allowable
50 under this subdivision for any taxable year exceeds the taxpayer's tax
51 for such year, fifty percent of the excess shall be treated as an over-
52 payment of tax to be credited or refunded as provided in section six
53 hundred eighty-six of this chapter, provided, however, that no interest
54 shall be paid thereon. The balance of such credit not credited or
55 refunded in such taxable year may be carried over to the immediately
56 succeeding taxable year and may be deducted from the taxpayer's tax for

1 such year. The excess, if any, of the amount of the credit over the tax
2 for such succeeding year shall be treated as an overpayment of tax to be
3 credited or refunded as provided in section six hundred eighty-six of
4 this chapter, provided, however, that no interest shall be paid thereon.

5 § 6. The tax law is amended by adding two new sections 187-t and 187-u
6 to read as follows:

7 § 187-t. Alternative fuels credit. 1. General. A taxpayer shall be
8 allowed a credit, to be credited against the taxes imposed under
9 sections one hundred eighty-three, one hundred eighty-four, and one
10 hundred eighty-five of this article. Such credit, to be computed as
11 hereinafter provided, shall be allowed for fuel flexible and hybrid
12 vehicles placed in service during the taxable year. Provided, however,
13 that the amount of such credit allowable against the tax imposed by
14 section one hundred eighty-four of this article shall be the excess of
15 the credit allowed by this section over the amount of such credit allow-
16 able against the tax imposed by section one hundred eighty-three of this
17 article.

18 2. Fuel flexible and hybrid vehicles. The credit under this subdivi-
19 sion for fuel flexible and qualified hybrid vehicles shall equal five
20 hundred dollars per vehicle registered in this state.

21 3. Definitions. (a) The term "fuel flexible vehicle" means a vehicle,
22 which is equipped to use alternative fuel as defined in subdivision
23 fourteen of section three hundred fifty-one of the public authorities
24 law.

25 (b) The term "qualified hybrid vehicle" shall have the same meaning as
26 provided for in subparagraph (B) of paragraph three of subsection (p-1)
27 of section six hundred six of this chapter.

28 4. Carryovers. In no event shall the credit under this section be
29 allowed in an amount which will reduce the tax payable to less than the
30 applicable minimum tax fixed by section one hundred eighty-three or one
31 hundred eighty-five of this article. If, however, the amount of credit
32 allowable under this section for any taxable year reduces the tax to
33 such amount, any amount of credit not deductible in such taxable year
34 may be carried over to the following year or years and may be deducted
35 from the taxpayer's tax for such year or years.

36 5. Credit recapture. (a) If, within three full years from the date a
37 qualified hybrid vehicle is placed in service ceases to be qualified, a
38 recapture amount must be added back in the tax year in which such cessa-
39 tion occurs.

40 (b) A qualified hybrid vehicle ceases to be qualified if:

41 (i) it is modified by the taxpayer so that it no longer meets the
42 requirements of a qualified hybrid vehicle as defined in subparagraph
43 (B) of paragraph three of subsection (p-1) of section six hundred six of
44 this chapter, or

45 (ii) the taxpayer receiving the credit under this section sells or
46 disposes of the vehicle and knows or has reason to know that the vehicle
47 will be so modified.

48 (c) The recapture amount is equal to the credit allowable under this
49 section.

50 6. Termination. This section shall not apply to property placed in
51 service in taxable years beginning after December thirty-first, two
52 thousand eighteen.

53 § 187-u. Alternative fuel credit for installation or conversion of
54 fueling stations. (1) Allowance of credit. A taxpayer shall be allowed a
55 credit, to be computed as hereinafter provided, against the tax imposed
56 by this article for the cost of installation construction, recon-

1 struction or acquisition of an alternative fuel refueling facility that
2 is directly attributable to the storage, compression, charging or
3 dispensing of alternative fuels to motor vehicles. The income tax cred-
4 it shall be thirty percent of the costs associated with such expenses.

5 (2) Application of credit. If the amount of the credit allowable under
6 this section for any taxable year exceeds the taxpayer's tax for such
7 year, fifty percent of the excess shall be treated as an overpayment of
8 tax to be credited or refunded as provided in section six hundred eight-
9 y-six of this chapter, provided, however, that no interest shall be paid
10 thereon. The balance of such credit not credited or refunded in such
11 taxable year may be carried over to the immediately succeeding taxable
12 year and may be deducted from the taxpayer's tax for such year. The
13 excess, if any, of the amount of the credit over the tax for such
14 succeeding year shall be treated as an overpayment of tax to be credited
15 or refunded as provided in section six hundred eighty-six of this chap-
16 ter, provided, however, that no interest shall be paid thereon.

17 § 7. The public authorities law is amended by adding a new section
18 1884 to read as follows:

19 § 1884. Alternative fuel grants. The New York state energy research
20 and development authority shall:

21 1. Oversee and promote research and development regarding fuel diver-
22 sification and energy efficiency in the transportation sector; and

23 2. Provide grants for the creation of a cellulosic ethanol refinery.

24 § 8. Subdivision 10 of section 354 of the public authorities law, as
25 amended by section 2 of part TT of chapter 54 of the laws of 2016, is
26 amended to read as follows:

27 10. To construct, reconstruct or improve on or along the thruway
28 system in the manner herein provided, suitable facilities for gas
29 stations, restaurants, and other facilities for the public, or to lease
30 the right to construct, reconstruct or improve and operate such facili-
31 ties; such facilities shall be publicly offered for leasing for opera-
32 tion, or the right to construct, reconstruct or improve and operate such
33 facilities shall be publicly offered under rules and regulations to be
34 established by the authority, provided, however, that lessees operating
35 such facilities at the time this act becomes effective, may reconstruct
36 or improve them or may construct additional like facilities, in the
37 manner and upon such terms and conditions as the board shall determine;
38 and provided further, however, that such facilities constructed, recon-
39 structed or improved on or along the canal system shall be consistent
40 with the canal recreationway plan approved pursuant to section one
41 hundred thirty-eight-c of the canal law and section three hundred eight-
42 y-two of this title; and provided further, that each such facility which
43 contains or consists of a gas station shall include a facility for sell-
44 ing to the public alternative fuel, as defined in section three hundred
45 fifty-one of this article.

46 § 9. Section 351 of the public authorities law is amended by adding a
47 new subdivision 14 to read as follows:

48 14. "Alternative fuel" shall mean ethanol, methanol, natural gas,
49 propane, electricity (including electricity from solar energy), hydro-
50 gen, and any other fuel identified which is substantially not petrole-
51 um-based, which is consistent with the goals of protecting the safety
52 and health of the public and minimizing emissions of air pollutants, and
53 which is consistent with any applicable federal alternative fuel
54 requirements.

55 § 10. The sum of eighty-two million dollars (\$82,000,000), or so much
56 thereof as may be necessary, is hereby appropriated as follows: thirty

1 million dollars for research and development in regards to fuel diver-
2 sification and energy efficiency in the transportation sector; twenty-
3 seven million dollars for the installation of alternative fueling
4 stations at each of the twenty-seven travel plazas on the New York state
5 thruway; twenty million dollars for a cellulosic ethanol refinery; and
6 five million dollars for administrative costs borne by the department of
7 taxation and finance and the New York state energy research and develop-
8 ment authority to the department of taxation and finance; out of moneys
9 in the state treasury in the general fund to the credit of the alterna-
10 tive fuel incentive fund, not otherwise appropriated, and made imme-
11 diately available, for the purpose of carrying out the provisions of
12 this act. Such moneys shall be payable on the audit and warrant of the
13 comptroller on vouchers certified or approved in the manner prescribed
14 by law.

15 § 11. This act shall take effect on the one hundred eightieth day
16 after it shall have become a law; provided, however, that the commis-
17 sioner of taxation and finance shall be authorized on and after the date
18 this act shall have become a law to adopt and amend any rules or regu-
19 lations and to take any steps necessary to implement the provisions of
20 this act.